HONOURABLE SMT.JUSTICE T.MEENA KUMARI

&

HONOURABLE SRI JUSTICE P. LAKSHMANA REDDY

WRIT APPEAL NO.1912 OF 2002

Dated 17th August, 2005

Between:

1. Board of Directors of Rayalaseema Grameena Bank, Cuddapah, rep.by its 'Chairman, Cuddapah, Cuddapah Dist. and anr.

Appellants/petitioners.

And:

M.N.Prasad son of Narayana, 45 yrs, resident of Nandyal, Kurnool District.

Respondent/Respondent.

JUDGMENT : (Per the Honourable Smt. Justice T.Meenakumari)

This writ appeal is filed by the appellants herein aggrieved by the order in W.P. No: 29097 of 1998, under which the learned single Judge allowed the said writ petition to the extent indicated therein.

The appellants herein are the respondents and the respondent herein is the petitioner in the writ petition. The parties are referred to as arrayed in the writ petition for the sake of convenience.

The petitioner has filed the writ petition seeking a direction in the nature of writ of mandamus to the respondents to consider the claim of the petitioner on par

with his juniors with all consequential benefits. The learned single Judge having observed that once the disciplinary proceedings against the writ petitioner were quashed, he was entitled to be considered for these two promotions, allowed the petition directing the respondents to consider the case of the petitioner for promotion to the post of officer with reference to the year 1988 in accordance with the procedure that was prevalent at that time and if he is found not suitable with reference to the year 1988, he shall be considered for promotion along with the candidates promoted in the year 1989 in accordance with the procedure that was adopted for that promotion. Having aggrieved by the same, the present writ appeal is preferred by the respondents herein.

Heard the learned counsel.

We have perused the order impugned and the entire material available on record.

It is the case of the petitioner that initially, he was appointed as Junior Clerk in the respondent-Bank on 13-5-1980 and thereafter, he was promoted as Senior Clerk and Cashier on 30-8-1983. On the ground that he had resorted to certain acts of misconduct, he was placed under suspension on 12-10-1983 and departmental proceedings were initiated and the same in turn resulted in dismissal of the petitioner. He challenged the same before this Court in W.P.No.18709 of 1988 in which the learned single Judge quashed the order of dismissal of the petitioner by the judgment dated 07-10-1994. The matter was carried in appeal by the respondents in W.A.No.107 of 1985 which was dismissed by an order dated 25-8-1985. Thereafter, the matter was also carried to the Supreme Court in S.L.P.No.26227 of 1995 and the Apex Court dismissed the same by an order dated 25-3-1996. After dismissal of the S.L.A. the petitioner was reinstated into service on 15-5-1996 and was extended almost all the monetary benefits.

Now, coming to the facts of the case on hand, the specific case of the petitioner is that he was not promoted to the Officer grade in spite of the promotions given to his contemporaries as well as the juniors.

On the other hand, it is contended by the learned counsel for the respondents that the question of considering the petitioner for promotion, does not arise in view of the promotional tests conducted during the years 1988 and 1989 and as he was not in service at the time of making selections. It is further contended that the learned

single judge was not right in holding that once his punishment is set aside, he should be considered for promotion.

We have perused the material available on record and the order impugned. It goes to show that the order of dismissal of the petitioner, was set aside by this Court and subsequently, it was confirmed by the Apex Court and therefore, it has become final. If that being the case, when once the order of dismissal which is an outcome of the disciplinary proceedings, was set aside, nothing remains to proceed against the petitioner and as such, he is entitled to the promotions in an usual manner along with the other employees as rightly observed by the learned single Judge. However, in view of the fact that the petitioner was not in service at the relevant time of conducting the promotional tests and in the facts and circumstances of the case, we deem it appropriate to modify the order of the learned single Judge to the extent that the respondents shall consider the case of the petitioner in accordance with the procedure and rules, that were made applicable during the years 1988-89, in case such procedure and rules are available at the present, as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order.

Subject to the above modification, the writ appeal is disposed of. No costs.

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Justice T.Meena Kumari

Date : 17th August, 2005.

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Justice P. Lakshmana Reddy

Dvs/kvrk

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(Judgment delivered by the

honourable Smt. T.Meena Kumari)

17th August, 2005